

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION

---

OREGON FIREARMS FEDERATION,	)	
INC., et al.,	)	
	)	Civil No.
Plaintiffs,	)	2:22-cv-01815-IM
v.	)	(Lead Case)
	)	
TINA KOTEK, et al.,	)	Civil No.
	)	3:22-cv-01859-IM
Defendants.	)	(Trailing Case)
	)	
(Continued)	)	Civil No.
	)	3:22-cv-01862-IM
	)	(Trailing Case)
	)	
	)	Civil No.
	)	3:22-cv-01869-IM
	)	(Trailing Case)
	)	

---

\* VIDEOCONFERENCE \*

DEPOSITION UPON ORAL EXAMINATION  
OF EXPERT

BRENNAN N. RIVAS

---

Witness located in:  
Fort Worth, Texas

\* All participants appeared via videoconference \*

DATE TAKEN: March 22, 2023  
REPORTED BY: Tia B. Reidt, Washington RPR, CCR 2798  
Oregon # 22-0001

Page 2

(continued) )  
 )  
 MARK FITZ, et al., )  
 )  
 Plaintiffs, )  
 v. )  
 )  
 ELLEN F. ROSENBLUM, et al., )  
 )  
 Defendants. )  
 )  
 KATERINA B. EYRE, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 ELLEN F. ROSENBLUM, et al., )  
 )  
 Defendants. )  
 )  
 DANIEL AZZOPARDI, et al., )  
 )  
 Plaintiffs, )  
 v. )  
 )  
 ELLEN F. ROSENBLUM, et al., )  
 )  
 Defendants. )  
 )

Page 3

APPEARANCES

For Oregon Firearms Federation:

LEONARD WILLIAMSON  
VAN NESS WILLIAMSON  
960 Liberty Street SE, Suite 100  
Salem, OR 97302  
(503) 365-8800  
L.williamson@vwllp.com

For the State of Oregon Defendants:

HARRY WILSON  
MARKOWITZ HERBOLD  
1455 SW Broadway, Suite 1900  
Portland, OR 97201  
(503) 972-5076  
HarryWilson@markowitzherbold.com

\* \* \* \* \*

Page 4

## EXAMINATION INDEX

EXAMINATION BY:	PAGE
Mr. Williamson	5

## EXHIBIT INDEX

EXHIBIT	DESCRIPTION	PAGE
EXHIBIT 8	Declaration of Brennan G. Rivas, and Curriculum Vitae of Brennan G. Rivas.	6
EXHIBIT 9	Opinion by Francis Wilkinson titled "America's Long History of Gun Regulation."	37
EXHIBIT 10	Article titled "The Fugazi Second Amendment: Bruen's Text, History, and Tradition Problem and How to Fix It" by Patrick J. Charles.	38
EXHIBIT 11	Wikipedia article titled ".44 Henry."	31

1 detail on the technological aspect of it.

2 Q. Okay.

3 In terms of the resources that you rely on for  
4 this kind of work, you describe some of them in your  
5 declaration, and I just wanted to touch base on a  
6 couple of them and ask some questions.

7 So you mentioned that you use Westlaw as a  
8 resource; is that correct?

9 A. Yes.

10 Q. And how do you use that for this kind of work?

11 A. It's useful for finding case law, pulling up  
12 historic cases, and finding related cases.

13 Q. And as part of this body of work, in not just  
14 this declaration but I know you worked on a couple of  
15 them, did you use Westlaw for those -- for that  
16 purpose?

17 A. Yes.

18 Q. And the next resource is HeinOnline. Did you  
19 use that for this work too?

20 A. I'm sorry. Can you say the name of the  
21 resource again?

22 Q. H-E-I-N Online.

23 A. Yes. Yes, I used that also for finding cases.  
24 Also that site has databases of state statutes and  
25 session laws, and I use it to pull up those as well.

Page 18

1 Q. And that particular resource, does it show the  
2 history and evolution of statutes over time?

3 A. Not in -- not in organized trees like some  
4 others do. You -- you know, you can organize it by  
5 state. But it's -- you have to sort of know what  
6 you're looking for with that. It's not quite as -- not  
7 quite as -- I don't know, it's not quite as well as  
8 done as Westlaw, maybe.

9 Q. So if you were -- if you were researching in  
10 Texas the history of regulations between Bowie knives,  
11 how would you use that particular resource to see how  
12 the law evolved over time?

13 A. Well, you could, let's say, pull up session  
14 laws and just filter for Texas, and you could go  
15 through the -- go through the different laws.  
16 Although, I would say in my research on Texas, I've --  
17 I use other resources that are -- that are even better,  
18 and they're more targeted for Texas, but that's just  
19 because that's where my research background is. If I  
20 were to focus on another state, that would be a great  
21 place to start was just -- would be just filtering what  
22 are all of the laws from a particular state and start  
23 to go through them.

24 Q. Okay.

25 And you also mentioned the Duke Repository For

1 Historical Gun Laws?

2 A. Yes. I use that quite a bit. That's a great  
3 resource, a great first place to go.

4 Q. And by "great first place to go," it sounds  
5 like a qualifier.

6 A. Well, number one, it's easy to use. So if  
7 you're looking for where can I very quickly get results  
8 without having to log in, without having to wait for  
9 some database that's going through thousands and  
10 millions of records, it's very quick like that.  
11 It's -- like I said, it's really easy. You just type  
12 in the search bar and go to the site and start pulling  
13 things up. It's a great place to go to start.

14 Q. Okay.

15 And is it fair to say that the repository,  
16 when you're looking at that resource, it may not  
17 provide the entire body of the statute that you're  
18 wanting to look at?

19 A. Yes. They often -- they often excerpt, you  
20 know, to the relevant section or the relevant passage  
21 of a section. And so in order to get the full text,  
22 you know, you can -- it gives you the citation. You  
23 can go somewhere else and find the full text of the law  
24 in question.

25 Q. So you might jump over to Westlaw to do that

1 or someplace else?

2 A. Yeah. And especially the HeinOnline, yeah.

3 Q. Okay.

4 And you also mentioned the Cody Museum.

5 Did you do some work there?

6 A. I did, yes.

7 Q. And when was that?

8 A. In October 2022.

9 Q. Earlier in your testimony, you mentioned -- I  
10 think you said you would have liked the curator let you  
11 take a closer look at some of the stuff. Is that the  
12 museum you're talking about?

13 A. Well, one of them. I mean, I've been to --  
14 I've been to several museums that have collections of  
15 historic firearms, and it would be great to get an  
16 all-access tour like that, where they could show you  
17 some of the functionality of the gun. Not necessarily  
18 fire it, but at least be able to, you know, sort of  
19 take you through how the mechanisms worked. That would  
20 be great.

21 Q. What research did you do at the Cody Museum in  
22 October?

23 A. I was looking at the history and development  
24 of mostly the lever-action rifles, especially looking  
25 at the Winchester collections.

Page 45

1 done reference to them at various times, yes.

2 Q. Okay.

3 So if you could look at the article that  
4 Mr. Charles wrote. I think I've marked that  
5 Exhibit 10.

6 A. Okay.

7 Q. And on page 2, about a third of the way down,  
8 and it spills over onto the next page, I've highlighted  
9 some text.

10 A. Okay.

11 Q. Can you read that highlighted text to  
12 yourself? And then I have a follow-up question.

13 A. Okay.

14 Q. As a general matter, do you agree with his  
15 statement?

16 A. Well, Patrick certainly knows more about law  
17 than I do. He went to law school. So I would  
18 certainly take what he has to say in that regard  
19 seriously. But I would be reticent about, you know,  
20 claiming myself to be a legal expert in the same  
21 capacity as, like, a constitutional lawyer or  
22 something.

23 Q. Well, this -- this particular section that  
24 I've highlighted is really a criticism of the  
25 historical approach to the Court's analysis of history.

Page 46

1 And he says "To be blunt, Bruen fails to adhere to even  
2 basic academic standards. The length in which the  
3 Court margin walks history and then claim that  
4 virtually all the relevant evidence points in one  
5 direction is particularly worrisome."

6 You're a historian. Do you agree with that  
7 statement?

8 A. Insofar as it's a critique of the use and  
9 analysis of historical evidence, yeah, I would agree.

10 Q. Okay.

11 That's not the reason you cited to this  
12 particular publication, is it?

13 You reference it for a different reason in  
14 your declaration; correct?

15 A. Yes. From what I recall, I was scouring his  
16 footnotes pertaining to the statute of North Hampton.

17 Q. Okay.

18 Do you own any firearms yourself?

19 A. Yes. My husband and I have a firearm in our  
20 home.

21 Q. Can you tell me what it is?

22 A. It's a shotgun.

23 Q. And is it for hunting purposes or self-defense  
24 purposes?

25 A. Kind of both. He uses it hunting and has done

Page 71

## C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF PIERCE

I, Tia Reidt, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the deposition of BRENNAN N. RIVAS, having been duly sworn, on March 21, 2023, is true and accurate to the best of my knowledge, skill and ability. Reading and signing was requested pursuant to FRCP Rule 30(e).

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 27th day of March, 2023.



/S/ Tia B. Reidt  
Tia B. Reidt, RPR, CCR # 22-0001  
NOTARY PUBLIC, State of  
Washington.  
My commission expires  
5/15/2026.